

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 BRANDON LAMAR PRUITT,

8 Defendant.

Case No. 2:16-cr-00285-APG-NJK

**ORDER GRANTING IN PART MOTION
IN LIMINE TO ADMIT CERTAIN
ADMISSIONS BY THE DEFENDANT**

(ECF No. 163)

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10 Plaintiff United States of America's motion in limine to admit certain admissions by the
11 defendant (**ECF No. 163**) is **GRANTED in part**. The defendant does not object to the admission
12 of any of the identified portions of his prior testimony, and his prior testimony is admissible under
13 Federal Rule of Evidence 801(d)(2)(A).

14 The defendant seeks to supplement the Government's designated testimony with
15 additional excerpts, citing the rule of completeness under Federal Rule of Evidence 106. As
16 explained by the Tenth Circuit, Rule 106's purpose "is to prevent a party from misleading the jury
17 by allowing into the record relevant portions of a writing or recorded statement which clarify or
18 explain the part already received." *United States v. Lopez-Medina*, 596 F.3d 716, 735 (10th Cir.
19 2010). "The rule of completeness, however, does not necessarily require admission of [an entire
20 statement, writing or recording.] Rather, only those portions which are relevant to an issue in the
21 case and necessary to clarify or explain the portion already received need to be admitted." *Id.*
22 (quotation omitted). "In determining whether a disputed portion of a statement must be admitted
23 [under the rule of completeness], the trial court should consider whether (1) it explains the
24 admitted evidence, (2) places the admitted evidence in context, (3) avoids misleading the jury,
25 and (4) insures fair and impartial understanding of the evidence." *Id.* (quotation omitted).

26 None of the defendant's proposed excerpts is necessary to clarify or explain the
27 Government's designated excerpts, place those excerpts in context, avoid misleading the jury, or
28

1 ensure a fair and impartial understanding of the evidence. I therefore deny admission of the
2 defendant's requested designations.

3 The Government also seeks to admit A.D.'s written statements in a journal entry that she
4 had a goal to "Stop being a 304 one day" and for "Daddy to stop being a 16 one day" as adopted
5 admissions under FRE 801(d)(2)(B). Adopted admissions are statements which an opposing
6 party "manifested that it adopted or believed to be true." FRE 801(d)(2)(B). In order for an
7 adopted admission to be admitted, there must be sufficient foundational facts demonstrating that
8 the opposing party did actually adopt the statement. *United States v. Monks*, 77 F.2d 945, 950 (9th
9 Cir. 1985).

10 The "stop being a 304 one day" statement has already been deemed admissible as a
11 statement concerning state of mind. The Government argues that the defendant admitted the goal
12 for "Daddy to stop being a 16 one day" during his testimony at the first trial. The Government
13 also intends to introduce expert testimony that "16" means pimp.

14 Pruitt testified that he read A.D.'s journal, read the entry titled "Our Goals," and spoke
15 with her about it on the phone. He also testified that he agreed with A.D.'s goal for him to stop
16 being a "16," despite not knowing what a "16" was. While the defendant did adopt the statement
17 "Daddy to stop being a 16 one day," he explicitly denied any knowledge that "16" means pimp.
18 When taken together, the inference from the expert testimony and the journal entry is essentially
19 that the defendant admitted the goal to stop being a pimp one day. The defendant did not adopt
20 that interpretation of his admission; he denied it. The government may introduce the journal
21 entry if it also admits the defendant's testimony that he does not know what "16" means, in order
22 to properly describe what he admitted, provide context to the statement, and avoid misleading the
23 jury.

24 DATED this 25th day of January, 2018.

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27 ANDREW P. GORDON
28 UNITED STATES DISTRICT JUDGE